

**Regional Activity to Promote Integration through
Dialogue and Policy Implementation (RAPID)**



**Consumer Protection in the Telecommunications Industry
Southern Africa Development Community
Issues, Practices & Options for the Future**

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I. Introduction

Chemonics International Inc. is engaged in a five year commitment with the U.S. Agency for International Development's (USAID) Regional Center for South Africa (RCSA) to implement the "Regional Activity to Promote Integration Through Dialogue and Policy Implementation (RAPID)". RAPID supports a number of RCSA's strategic objectives, including assisting the Southern Africa Development Community (SADC) Countries in the furthering of regional market integration. Technical assistance is provided in a variety of areas, among them analyzing best practices for developing and implementing regional protocols in the telecommunications sector. Overall priorities stress privatization of telecommunications services, expansion of services to underserved areas, and increased access of consumer services through promotion of new providers and service options.

As markets transition and develop it is imperative that stakeholders, including government, operators, and especially consumers have confidence in the system, and that expectations and responsibilities are clearly articulated and understood. To be credible and supported by the public, consumer protections need to be adopted, promoted, monitored, and enforced. The main thrust of this report is aimed at consumer protections for retail consumers, although "consumer protections" should also exist for operators and competitors. This report intends to examine the current practices within the SADC region, identify models and/or best practices employed in other developed and developing countries that might assist the region in furthering consumer protection and satisfaction, and finally identify a list of issues and options for policy makers to consider. Development of this report included a review of the existing regional structure and efforts, interviews with several of the regulatory authorities and operators, an overview of laws, regulations and procedures, and a review of other models and best practices employed around the world.

Regulatory bodies exist if, and only if, they provide significant value-added to the public and they perform a unique role; therefore, resource type and allocation, and the access to and credibility of regulatory institutions is also at issue. Successful regulatory institutions are often marked by strong administration, a foundation in law including due process and enforcement boundaries, a long-term commitment, autonomy, a transparent public process, and a staff with strong professional abilities. Accepting those premises, this report will examine consumer protections through four major issues typically assessed in transitional markets:

- 1) How are consumer protections developed, monitored and enforced, in general?

- 2) What key performance indicators and/or service quality standards adequately reflect consumer needs, both for operator service and for regulatory authorities?
- 3) As public knowledge and involvement becomes more crucial to the process, how are regulatory authorities positioned to deliver relevant and adequate outreach and education to the public?
- 4) How are regulatory authorities positioned to act as market referee for operators and competitors, i.e. interconnection guidelines and fair trade practices?

II. Telecommunications Law – General

Regulatory laws pertaining to consumer protections should, among other things, establish:

- Authority and Responsibilities of key regulatory bodies, including the weight and standing of their decisions,
- Independence from undue political influence,
- Judicial public process that includes due process, public input, appeals provisions, and adjudication of disputes,
- Specific powers and responsibilities for access to information and production of records,
- Provisions for certifying/licensing/registering all providers, and for addressing performance failures, including offenses, enforcement, penalties, and consumer redress, for both retail consumers and operators/competitors alike.

Enabling statutes can be broad policy oriented; however, the framework should be supported by a body of rules and regulations, adopted by the regulatory body, that are comprehensive, clear, concise and enforceable. That often means establishing uniform standards and expectations understandable and supported by both licensees and consumers.

The SADC Telecommunications Policies and Model Telecommunication Bill (TP&MTB), approved June 1998, provides a useful framework that can be the basis for regional development. Although not comprehensive by United States standards, it does outline most of the critical elements necessary to establish, monitor and control the

telecommunications sector. The TP&MTB recognized the economic and social needs, the inadequate existing infrastructure, investment and government priority, adopted several crucial policy objectives, and addressed critical conditions, including institutional frameworks necessary to achieve the objectives. Key role players were identified, roles articulated and separated, responsibilities assigned, and accountability established to promote high quality, cost-effective, universal access and service, and protecting the interests of consumers. The TP&MTB serves as a useful framework to be supported by country specific rules and regulations.

The specific country laws reviewed cross the entire spectrum from perfunctory mention of consumer rights, redress and responsibilities to a very comprehensive body of requirements that are well structured and articulated. Swaziland, as an example in their draft law, does an excellent job of establishing the exclusive jurisdiction of the regulatory authority, conveying the ability of the authority to investigate and prosecute, requiring production of records, setting out expectations and providing penalties for non-compliance. It appears to be modeled after a United States-type Public Utility Commission that has evolved over decades of experience and judicial review. While most statutes in the region clearly have as their legitimate priority expansion of service, “protecting the interests of consumers and users” is prominently featured in many, such as Namibia, which also emphasizes an open, transparent process similar to the U.S. and India, as an example. I could not verify that a comprehensive set of rules, regulations or guidelines supports many of these statutes. It appeared that some countries are considering adopting internal guidelines, codes of conduct and practices aimed specifically at protecting consumers, but few have reached fruition. As a result, noncompliance and ramifications of that noncompliance through complaint handling and resolution will be problematic.

III. Consumer Protections/Rights

Many consumer protections in the countries reviewed, including service quality requirements, are embedded in individual licenses issued to operators and in some cases tariffs filed by operators in compliance of legal/license requirements. As long as only one or two operators exist, that may be adequate for administrative purposes, however it does not usually provide consumers with an understanding of their rights and responsibilities. Prepackaging of consumer protections and rights will reduce the decision-making requirements, speed up licensing, and aid in resource allocation. Many of the service quality standards and other consumer related features found in the licenses reviewed are actually surrogates for basic consumer rights. While protections are vaguely included, consumer rights are neither highlighted nor even defined. The terms “consumer protection” and “consumer rights” are often used interchangeably but there are subtle differences in meaning and use. Consumers in the region would have a difficult time understanding what their rights are and regulatory authorities are missing an opportunity to connect personally and positively with their constituency.

Most consumers in developed countries, even those in countries with strong consumer activism such as the United States and Canada, do not bother (even if they know how) to look at and understand the provisions in licenses or especially tariffs. As markets evolve into competition with more providers, services and options, many regulatory authorities around the world have also evolved from command-and-control regulation to more performance-based regulation emphasizing service quality standards and direct consumer involvement. The advent of multiple providers for service has significantly altered the relationship between consumers, providers, and government. Models from the United States and other developing and developed countries indicate that privatization and the onset of multiple providers will actually increase the burden on government as consumers become more involved in the marketplace through inquiries, complaints, and demand for intervention. There is considerable research to indicate that consumers are anxious to make their own decisions about providers and what service they want. There are five basic questions, however, that consumers want addressed:

- What am I going to pay?
- How can I become an informed consumer?
- Will the service be safe and reliable?
- Where can I go for objective information?
- Who is going to protect me?

Fortunately, regulatory authorities are positioned to answer all five of those concerns if there is a proper emphasis placed on consumer rights and issues. While most of the programs reviewed place the emphasis, and legitimately so, on infrastructure issues such as expansion of service, spectrum use, and connectivity, there is the potential to add consumer rights and greatly enhance the consumers' value-added.

There is a growing trend around the world for regulatory authorities to express their mission in terms of a **Consumer Bill of Rights**. While not having a legal standing, or even expressed in absolute standards, it is rather a set of guiding principles that can be expressed simply and understood by consumers. The principles are supported by a specific body of law and regulations. However, they are stated in broad terms addressing key consumer issues and concerns. Taking a composite of rights from several states in the United States, and elsewhere around the world, a **Consumer Bill of Rights** could include many or all of the following:

- Consumers have a right to disclosure of price, terms and conditions of service.

- Consumers have a right to choice and the honoring of that choice.
- Consumers have a right to privacy expectation and protection of their records.
- Consumers have a right to high quality, reliable, affordable service.
- Consumers have a right to responsive service and fair treatment.
- Consumers have a right to access of service and to know that all providers are licensed.
- Consumers have a right to participate in their regulatory authorities' processes.
- Consumers have a right to accurate bills and redress.
- Consumers have a right to complain and a quick resolution of that complaint.
- Consumers have a right to reasonable requirements for service.
- Consumers have a right to be protected from market abuse through active oversight and enforcement.
- Consumers have a right to a responsive government that is proactively charged with protecting their interests.

Another set of rights aimed at operators might include:

- Operators, and prospective operators have a right to a timely decision making process.
- Operators have a right to due process.
- Operators have a right to reasonable and fair entry and operational requirements
- Operators have a right to reasonable interconnection rules
- Operators have a right to fairly advertise, and be protected from unfair competition.

Adoption and promotion of a **Consumer Bill of Rights** will result in a more direct connection of consumers to both their providers as well as their government institutions. It will, however, profoundly impact the internal structure and operation of the regulatory body. To execute any of the potential rights described presupposes that the regulatory body has an effective intake function for answering inquiries and accepting and resolving complaints, is proactively identifying and solving problems, and is actively engaged in educating its constituency.

Fortunately the level of complaints and inquiries to regulatory bodies in the region is relatively low. As a result there is, with some exception, little in the way of formal structure to handle problems, identify trends, and respond effectively to problems. Most agencies and operators as well, do not have a centralized methodology for handling complaints, cataloguing complaints and inquiries, and responding in a programmatic approach. Complaints will be sent to the department best able to handle, but there does not appear to be a consistent data base that can track those complaints, track cycle times to resolve those complaints, perform a program analysis of the root causes of those inquiries or complaints, or can be used to enforce effectively, or educate the public. A complete review of consumer affairs elements and organization should be undertaken to ensure that:

- 1) There is a central register of all complaints, with unique identifiers that can track, at a minimum, date, type of complaint, operator, length of time complaint is open, and the resolution of complaint.
- 2) Inquiries and the nature of the inquiries are collected, analyzed, and reported to management.
- 3) There is an adopted methodology in the form of standard operating procedures for the handling of complaints that is understood and supported by consumers and operators.
- 4) Rules for handling customer contacts are promulgated, monitored, and enforced.
- 5) Basic skills for customer contact/complaint responding are identified and a continuous training plan for employees is adopted and implemented.
- 6) Satisfaction measures for consumers are implemented and monitored on a continuous basis.

7) Electronic/telecommunications needs are assessed relative to case tracking software systems, interactive voice response systems, and data base integration systems.

8) Consumer affairs functions are valued and supported within the agency, including reviewing internal agreements.

9) An entire Preventative Analysis Strategy is assessed and implemented, stressing the adequacy of internal and external data bases, the level of root cause analysis, and management reporting mechanisms.

The review of consumer affairs functions and organization should be in the broadest possible context. It is unfortunate, but consumer affairs organizations, if not well-integrated into the policy making and review functions of an agency and if their vision is limited by only that information that reaches them through their direct processes, can often be the last ones aware of the real problems. Only a small percentage of consumers who are dissatisfied actually feel empowered enough to complain, and a majority of complaints are handled by the operators. A good source of data about customer needs, concerns, problems, and abuses is the operators themselves. It is not uncommon for a regulatory authority to demand complaint and inquiry data from the utility, and combine that with their own experience. It is another early-warning tool that can aid in detection of consumer problems before they get out of control.

IV. Service Quality Standards

Service quality and the adoption of measurable, appropriate standards is an important consumer protection, and acts as a surrogate for a basic consumer right to safe, reliable and high quality service. They also measure system performance as well as the performance of the regulatory authorities. Furthermore, service quality standards, if developed properly, can perform a number of important regulatory functions, including:

- Historical measure of performance improvement— systems, operators, and regulatory authorities
- Foundation for performance based ratemaking criteria
- Trend analysis
- Measure license/contractual compliance
- Foundation for enforcement of targets, and for continuous improvement

The licenses reviewed all contained substantial service quality standards as a condition of service. Measuring AND reporting service quality aids substantially in identifying consumer concerns and in assuring consumers' needs are being met. Promoting, or publicizing, service quality results will help provide consumers with information necessary to make informed choices, draw attention to problem areas, provide a strong incentive for operator improvement, and will add significantly to the public credibility of the regulatory authority. No absolute standard is right or recommended for every country, or even every region. Conceptually, however, there are several measures that might be universally relevant. In many developed countries key service quality measures are organized around the installation of basic service, maintenance and repair experience, network performance, customer perceptions, transmission and noise, and answer time performance. Developing countries might add categories related to new areas and lines connected, base stations commissioned (cellular), interconnection, and complaint handling, as an example. A typical matrix of service quality might include:

- Installation

- Number of areas connected or orders completed
- Number of installations completed within 3/5/7 days portrayed as a percentage, and disaggregated by type, geography, etc.
- Number of held orders over 30 days, or possibly 60 or 90, depending on the circumstance
- The number of missed commitments (important in developed countries, but may not be as relevant in developing ones)

- Maintenance & Repair

- Number of trouble reports per 100 lines/customers
- Number of repeated trouble lines, where the operator is called out again within 30/60/90 days
- Average repair interval
- Number of out-of-service troubles for more than 24/48/72 hours

- Network Performance

- Number of outages experienced by type, i.e. switch and line concentrator, interoffice transmission facility, etc.
- By duration, in minutes or hours, depending on type
- Number of calls completed within a prescribed time, i.e. % within 3/5 seconds
- Transmission and noise characteristics, expressed as a loss of decibels or noise levels

- Answer Time – Customer Calling Experience

- Number of calls attempted
- Number of calls answered by recorded information
- Number of calls answered by live attendant
- Number of calls abandoned or dropped
- Average waiting time for calls to be answered live, after customer opts for a live operator

- Customer Perception

- Number of complaints referred to operator by the regulatory body
- Number of complaints initiated and investigated by the operator
- Customer satisfaction surveys, reported as the percentage of satisfied or dissatisfied customers, disaggregated into relevant categories

The service quality standards discussed so far are external, and applicable to operators, however they also have a relevance as means of judging the performance of the regulatory body. Some regulatory bodies, as an example the California Public Utilities Commission, survey customers on a quarterly basis, asking a variety of objective and subjective questions aimed at gauging public satisfaction. Results, however humbling, were reported to management and released publicly. Internal service quality standards and reporting provide the same type of benefits that external ones do, mainly to chart performance over time, provide an agency incentive to improve, provide a basis for individual and group performance appraisal, identify training and development needs, and identify early areas of nonperformance and concern. If applied in a non-threatening manner, internal standards can also measure levels of support between units, develop team unity, foster peer involvement, and assist in organizational development. It does not appear that this approach is employed extensively within the region. Typical internal standards for consumer affairs could include the following options:

- Answer Time

- Identical or similar categories to external providers, i.e. calls attempted, completed, abandoned, average answer time

- Process Times & Transactions

- Average length of call
- Cycle times for complaint handling
 - initial acknowledgement

- resolution
- Decision making time

- Customer Satisfaction

- Number in agreement
- Number treated fairly, competently
- Number meet customers' expectations

- Process Quality

- Number of successful dispute resolutions
- Number overturned by Commissioners

Operating in a consumer affairs enterprise is a stressful, often thankless job, and adding service quality measures may seem even more threatening, however, they can be applied in a positive group oriented fashion that actually helps build the unit together and direct improvements (training, technology, processes) in a focused, efficient manner. Managers must realize that complainants are already dissatisfied when they complain to the regulatory authority and if they don't realize the redress they feel they deserve, may take it out on the regulatory agency in their response to satisfaction surveys. Therefore absolutes should be avoided, and certain impassioned, negative comments should be normalized. Positive reinforcement for performance is essential, and results can be used for bonuses, perks, recognition, promotion and anything else that good, concerned managers can think of. Attached is a copy of the internal survey employed by the California Public Utilities Commission.

V. Education/Outreach

One of the most value-added functions a regulatory body can perform is empowering its consumers with information, not just retroactively when a problem exists or surfaces, but proactively through a well thought out comprehensive educational program that performs continuous and personal outreach. Only through a proactive, building-block type of organized education program can agencies:

- Develop a knowledgeable constituency, that both understands and values the regulatory body
- Maintain continuity and consistency of approach.
- Maintain complete control over the final product or distortions.
- Maintain control of recipients.

- Maintain control of timing.
- Maintain control over comprehensiveness of messages.
- Develop a more thorough and continuous understanding of consumers and their evolving needs
- Develop an informed constituency capable of making more and better decisions, alerting agencies to problems before they escalate, and reducing confusion and unfairness in the marketplace.
- Develop a better ability to handle consumer complaints

As the number and complexity of decisions consumers need to make increase so too does the need for comprehensive, centralized, objective information, and so too does the number of complaints the regulatory agencies are forced to address.

In the United States, most states saw a sharp rise in telecommunications complaints in the mid-1990's, an average of 90%+ between 1993 and 1997 nationwide, as competition increased. Regulatory agencies needed a whole new approach to face these new challenges, and the National Regulatory Research Institute, an arm of the National Association of Regulatory Utilities Commissioners found that:

No area of commission change has been more pervasive than the movement toward educating consumers. Though the focus of this effort has largely been on creating mechanisms for informing consumers about competitive markets, it has also involved the development of information about consumer needs and preferences, the creation of two-way communications with consumers, a heightened awareness of the need to provide user-friendly service to consumers at all levels of the Commission, with a particular emphasis on residential customers, and the recognition of the need for commissions to reposition themselves in the minds of the public.¹

There is now a more heightened level of cooperation and integration between consumer affairs and the communications arm of most of the Commissions. Many commissions have adopted formal education programs for implementing major changes and for informing consumers about market abuse, and the states and the U.S. Federal Communications Commission have entered into a joint formal education and enforcement program called the State National Action Plan (SNAP). In discussions with

¹ David W. Wrick, et. al, *Organizational Transformation Ensuring the Relevance of Public Utility Commissions*, (Columbus, Ohio, 1998, 4).

some of the SADC members it is clear that all perform a public information function using mass media, collateral materials and some limited outreach, but not generally in a formal adopted plan. Botswana has developed a model draft Action Plan 2001-2002, authored by the Department of Communications and Consumer Affairs that does an excellent job of setting out goals, strategies, actions, key performance indicators, time frames, and responsibilities/accountability for educating its constituents. I would recommend that Botswana be encouraged to adopt the plan and others in their region to assess their consumers' educational needs. Generally education programs have four objectives, with specific tools available to meet each objective.

<u>Objective</u>	<u>Tool</u>
Awareness	Mass media, public relations
Understanding	Collateral material
Assurance	One-on-one telephone or personal interaction, i.e. call center
Acceptance	Community Based Organizations or Leaders with existing access and credibility

Planning and implementing a formal education effort may seem daunting and costly at first, but they can be adapted to any budget and usually follow a straightforward approach that, when understood, can be executed easily and effectively. The key is that agencies acquire the necessary skills and abilities, which usually have not been within their core competencies, and that the program be planned thoughtfully. The planning instrument contains six basic elements:

Research

- Predisposition of knowledge
- Concerns
- Identification of credible institutions
- Quantifiable measures
- Test market ideas

Needs Assessment

- Types/locations of complaints and inquiries
- Consumer concerns
- New program initiatives

Strategic Plan

- Goal
- Objectives Quantifiable
- Strategies
- Tactics
- Measurement and Evaluation

Message Development

- From Needs Assessment, Research
- Test market
- For each market and tool
- Simplified for maximum understanding
- Personified to connect with consumers

Delivery Mechanism

- Mix of mass media types
- Collateral material distribution
- Diversification of delivery tools
- Repetition of delivery
- Outreach at community level

Measurement & Evaluation

- Quantify expectations
- Actual measurements
- Identify knowledge gaps and the root causes
- Develop adjustments
- Continue circular loop

Although not there yet, education will become one of the main core responsibilities of the regulatory authorities in the region and will constitute one of the major consumer protections provided.

VI. Conclusions/Issues

To date, the efforts of the regulatory bodies in the region have appropriately centered on expansion of services and all the ancillary functions associated with that goal. Shortly, however, as consumers become more numerous and sophisticated, consumer rights, protections and education will become increasingly more important. The regulatory agencies in the region appear to be marked by intelligent, educated and committed staff that need the regulatory authority, will, organization, skills and abilities to respond to consumers in a changing environment. Issues for the future, in relation to consumer protections, include:

- Do the governing statutes clearly establish the authority, standing and unique role of the regulatory authority?
- Are there sufficient standards, rules and regulations in place to adequately protect consumers' rights, both retail and wholesale?
- Should consumer protections be adopted on a prepackaged basis and promoted as consumer rights?
- Do the regulatory agencies have the internal organization, skills, technology and procedures in place to respond to consumer needs?
- Do consumers realize what their rights are and what agency is there to protect those rights?
- Are the agencies equipped to aid consumers in their needs for information?

VII. Recommendations

Recognizing that I only reviewed a fraction of the countries involved in the region and for only a short period of time, I would recommend the following for individual countries:

- 1) A thorough review of the existing enabling statutes to determine if the regulatory agencies have the authority, investigative and sanctioning power, independence and process adequate to protect consumers;
- 2) Agencies review their internal procedures and adopt supplemental ones to ensure that consumer rights are identified, monitored and enforced;
- 3) Consumer affairs functions are thoroughly reviewed along the lines mentioned previously especially as to skills, technology, procedures, training and evaluation;
- 4) Service quality standards appropriate to each individual country be adopted, promoted, monitored and enforced; and
- 5) Agencies develop the ability to create and execute education and outreach programs, both as a consumer protection and as a means of providing visibility, accessibility and credibility;

On a regional basis, to assist countries with adopting the recommendations above, I would further recommend that:

- 1) The role of TRASA be assessed with a goal toward developing a more regional capacity;
- 2) A model **Consumer Bill of Rights** be developed for retail and wholesale consumers, similar to the model Telecommunications Law;
- 3) Relevant Service Quality Standards be identified and offered for specific country adoption, for operators, systems, and regulatory authorities;
- 4) The need for specialized expertise, i.e. auditors, investigators, be assessed and a determination made as to whether the needs are amenable to a regional solution;
- 5) A model Consumer Affairs template be considered including developing consumer-friendly policies, cultures and organizations;
- 6) A regional training concept be evaluated, for all skills but especially for public intake, complaint handling and investigative protocols, and
- 7) A prototype education/outreach plan template be developed that can be modified and adapted to individual need.

The above issues and recommendations, beginning with the regional list, could be evaluated and implemented within twelve months.